

# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH

Manisha Juthani, MD  
Commissioner



Ned Lamont  
Governor  
Susan Bysiewicz  
Lt. Governor

Healthcare Quality And Safety Branch

### **IMPORTANT NOTICE - PLEASE READ CAREFULLY**

January 30, 2023

Joanne Gabriel, Administrator  
Newtown Rehabilitation & Health Care Center  
139 Toddy Hill Road  
Newtown, CT 06470

Dear Ms Gabriel:

On **January 26, 2023** complaint investigations visit were concluded at your facility by the State of Connecticut, Department of Public Health, Facility Licensing & Investigations Section to determine if your facility was in compliance with Federal requirements for nursing homes participating in the Medicare and Medicaid programs. This survey found the most serious deficiencies in your facility to be:

**A pattern of deficiencies that constitute immediate jeopardy to health and safety whereby significant corrections are required (K).**

All references to regulatory requirements contained in this letter are found in Title 42, Code of Federal Regulations.

Your deficiencies under:

**Fed - F - 0000 - - Initial Comments**

**Fed - F - 0600 - 483.12(a)(1) - Free From Abuse And Neglect S-S= K**

**Fed - F - 0725 - 483.35(a)(1)(2) - Sufficient Nursing Staff S-S= K**

have been determined to constitute immediate jeopardy.

**An Enforcement Cycle has been initiated based on the citation of deficiencies at a “D” level or greater at your facility. All statutory/mandatory enforcement remedies are effective based on the beginning survey of the Enforcement Cycle. Your Enforcement Cycle began with the November 18, 2022 survey. All surveys conducted after November 18, 2022 with deficiencies at a “D” level**



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**or greater become a part of this Enforcement Cycle. The enforcement cycle will not end until substantial compliance is achieved for all deficiencies from all surveys within an enforcement cycle. Facilities are expected to achieve and maintain continuous substantial compliance.**

Although the allegation of Immediate Jeopardy was removed on January 15, 2023, the Department is requesting a written allegation which removed the Immediate Jeopardy be submitted by the 10th day after the facility receives its Statement of Deficiencies (Form CMS-2567). Your allegation to remove the Immediate Jeopardy serves as your written allegation of compliance. Failure to submit a signed and dated acceptable allegation to remove the immediate jeopardy by **February 8, 2023** may result in the imposition of additional remedies by the 20th day after the due date for submission of an allegation to remove the immediate jeopardy.

Each plan of correction must be written on the Statement of Deficiencies. Each allegation to remove the immediate jeopardy must be submitted through the ePOC website, and must include identification of the staff member by title who has been designated the responsibility for monitoring the individual plan submitted for each deficiency. A completion date is required for each item for each deficiency and shall be documented in the designated column.

**The allegation of removal of each deficiency and the immediate jeopardy for each deficiency shall include the following components:**

- **What correction action(s) will be accomplished for those residents found to have been affected by the deficient practice;**
- **How you will identify other residents having the potential to be affected by the same deficient practice and what corrective action will be taken;**
- **What measures will be put into place or systemic changes made to ensure that the deficient practice does not recur; and,**
- **How the facility will monitor its corrective action(s) to ensure that the deficient practice will not recur, (i.e., what quality assurance or other program will be put into place to monitor the continued effectiveness of the systemic change).**
- **Identify the staff member, by title, who has been designated the responsibility for monitoring the individual plan of correction for each deficiency and the completion date for each component.**

Your facility does not have an "opportunity to correct" the deficiencies noted prior to imposition of a remedy. However, deficiencies with a severity level of immediate jeopardy should be corrected by **February 8, 2023**. Deficiencies without a severity level of immediate jeopardy should be corrected by **March 9, 2023**.

Based on the deficiencies cited during your survey, we are recommending to the Centers for Medicare and Medicaid Services (CMS) Regional Office and/or the State of Connecticut Department of Social

Services that:

A civil money penalty be imposed effective **January 13, 2023**. If the Regional Office and/or the State of Connecticut Department of Social Services decides to impose the recommended civil money penalty, a notice of imposition will be sent to you.

Also we are recommending a denial of payment for all new admissions be imposed. Once imposed, denial of payment for all new admissions under Medicare and Medicaid will continue until substantial compliance is achieved or termination occurs.

Further, we are imposing a directed plan of correction as follows:

**Directed Plan of Correction;**

In accordance with Federal regulations at 42 CFR § 488.424, a Directed Plan of Correction is imposed on the facility. In accordance with , this remedy is effective **15 calendar days from the date of the enforcement letter**. The DPOC may be completed before or after that date. The effective date is not a deadline for completion of the DPOC. However, the State Agency will not conduct a revisit prior to receipt of documentation confirming the DPOC was completed in accordance with the specification described in this notice. Please send all documentation to the State Agency to Maureen Golas-Markure at maureen.golas-markure@ct.gov.

Please note, if documentation includes any resident personal identifiable information (PII) or personal health information (PHI) it must be sent encrypted.

Imposition of this DPOC does not replace the requirement that the facility must submit a complete POC for all cited deficiencies within 10 days after receipt of the form CMS 2567.

The Facility shall:

1. The Facility shall cease all admissions until such time the facility is in substantial compliance with Medicare and Medicaid requirements for participation requirements for Long Term Care (LTC) facilities 42 CFR part 483, subpart B. Re-admissions for Residents admitted to the hospital shall be permitted.
2. The Medical Director, Administrator, Director of Nurses, and Staff Development Coordinator, shall participate in the revision of policy and procedures related to abuse and neglect and staffing and participate in the development and implementation of the plan of correction.
3. The Facility shall in-service all staff regarding the policies and procedures and revisions as applicable, noted in Paragraph 2.
4. The Administrator shall designate an individual to oversee the implementation of this plan of correction.

5. All elements noted above shall be implemented within 7 days of this letter.
6. The Facility shall execute a contract with an Independent Nurse Consultant (“INC”) pre-approved in writing by the Department within one (1) week of receipt of this DPOC. The INC’s duties shall be performed by a single individual unless otherwise approved by the Department. The Facility shall incur the cost of the INC and any other costs associated with compliance with this DPOC. Failure to pay the INC in a timely basis and in accordance with the contract, as determined by the Department in its sole and absolute discretion, shall constitute a violation of this DPOC.
7. The INC shall be a registered nurse who holds a current and unrestricted license in Connecticut. The registered nurse assuming the functions of the INC shall not be included in meeting the nurse staffing requirements of the Regulations of Connecticut State Agencies. The INC shall provide consulting services until such time the facility is in substantial compliance with Medicare and Medicaid requirements for participation requirements for Long Term Care (LTC) facilities 42 CFR part 483, subpart B.
8. The INC shall be present at the Facility twenty-four (24) hours per week and arrange his/her schedule in order to be present at the Facility at various times on all three shifts including holidays and weekends. The terms of the contract executed with the INC shall include all pertinent provisions contained in this DPOC.
9. The INC shall act and perform the duties assigned herein at all times to serve the interest of the Department in assuring the safety, welfare and well-being of the residents and to secure compliance with applicable federal and state law and shall not accept any direction or suggestion from the Facility or its employees that will deter or interfere in fulfilling this obligation.
10. The INC shall conduct and submit to the Department an initial assessment of the Facility’s regulatory compliance related to abuse, neglect and adequate staff to ensure the provision of care in accordance with all assessed resident needs and identify areas requiring remediation within two (2) weeks after the execution of this DPOC. During the initial assessment, if the Independent Consultant identifies any issues requiring immediate attention, s/he shall immediately notify the Department and the Facility for appropriate response.
11. The INC shall review staffing and staff assignments to ensure service delivery in accordance with resident treatment plans.
12. The INC shall meet with the facility's Resident Council weekly for the duration of this DPOC. The INC will follow up with any concerns presented that require resolution or remediation.
13. The INC shall confer with the Facility’s Medical Director, Administrator, Director of Nursing Services and other staff determined by the INC to be necessary to the assessment of nursing services and the Facility’s compliance with federal and state statutes and regulations related to abuse and neglect.
14. The INC shall make recommendations consistent with accepted standards of practice, to the

Facility's Administrator, Director of Nursing Services and Medical Director for improvement in the delivery of direct patient care in the Facility. If the INC and the Facility are unable to reach an agreement regarding the INC's recommendation(s), the Department, after meeting with the Facility and the INC, shall make a final determination, which shall be binding on the Facility.

15. The INC shall submit written reports every two weeks to the Department documenting:
  - a. The INC's assessment of the care and services provided to residents.;
  - b. Facility compliance with applicable federal and state statutes and regulations and CDC guidance; and,
  - c. Any recommendations made by the INC and the Facility's response and implementation of the recommendations.
16. Copies of all INC reports shall be simultaneously provided to the Director of Nurses, Administrator, Medical Director and the Department.
17. The INC shall have the responsibility for:
  - a. Assessing, monitoring, and evaluating the delivery of direct resident care with particular emphasis and focus on the delivery of nursing services by registered nurses, licensed practical nurses, and nurse aides and implementing prompt training and/or remediation in any area in which a staff member demonstrated a deficit. Records of said training and/or remediation shall be maintained by the Facility for review by the Department.
18. The Facility shall meet with the Department every other week to review in part, the INC's assessments as it relates to paragraph 17a.
19. In addition to the DPOC, the facility shall conduct a Root Cause Analysis (RCA) of the identified deficiencies. As a result of the RCA, the Facility shall develop systemic changes that must be taken to address the root cause.

Your facility's deficiency with

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have been determined to constitute substandard quality of care as defined at §488.301. Sections 1819(g)(5)(C) and 1919(g)(5)(C) of the Social Security Act and 42 CFR §488.325(h) require that the attending physician of each resident who was found to have received substandard quality of care, as well as the State board responsible for licensing the facility's administrator, be notified of the substandard quality of care. In order for us to satisfy these notification requirements, and in accordance with §488.325(g), you are required to provide the following information to this agency within 10

working days of receipt of this letter:

- The name and address of the attending physician of each resident found to have received substandard quality of care.

Please note that, in accordance with §488.325(g), failure to provide this information on a timely basis will result in termination of participation or imposition of alternative remedies.

In addition, when a determination of substandard quality of care is made and a facility has been subject to an extended or partial extended survey, Sections 1819(f)(2)(B)(iii) and 1919 (f)(2)(B)(iii), as well as 42 CFR 483.151(b)(2) and 483.151(e), require denial or withdrawal of approval of facility-based Nurse Aide Training and Competency Evaluation Programs.

**Please note that this notice does not constitute formal notice of imposition of alternative remedies or termination of your provider agreement. Should the Centers for Medicare & Medicaid Services determine that termination or any other remedy is warranted, it will provide you with separate formal notification of that determination.**

#### Allegation of Compliance

The Plan of Correction serves as your allegation of compliance. We may accept the written allegation of compliance and presume compliance until substantiated by a revisit or other means.

If, upon the subsequent revisit, your facility has not achieved substantial compliance, we will recommend that additional remedies be imposed by the CMS Regional Office and/or the State of Connecticut Department of Social Services beginning on **January 26, 2023** and to continue until substantial compliance is achieved. Additionally, the CMS Regional Office and/or the State of Connecticut Department of Social Services may impose a revised remedy(ies), based on changes in the seriousness of the noncompliance at the time of the revisit, if appropriate.

#### Informal Dispute Resolution

In accordance with §488.331, you have one opportunity to question cited deficiencies through an informal dispute resolution process. You may also contest scope and severity assessments for deficiencies which resulted in a finding of Substandard Quality of Care (SQC) or immediate jeopardy. To be given such an opportunity, you are required to send your written request, along with the specific deficiencies being disputed, and an explanation of why you are disputing those deficiencies (or why you are disputing the scope and severity assessments of deficiencies which have been found to constitute SQC or immediate jeopardy), to this office. This request must be sent during the same 10 day period you have for submitting a PoC for the cited deficiencies **through the ePOC website (as an attachment)**. **Please do not mail.** Informal dispute resolution may be accomplished by telephone, review of submitted documentation or a meeting held at the Department. An incomplete informal dispute resolution process will not delay the effective date of any enforcement action.

Informal dispute resolution in no way is to be construed as a formal evidentiary hearing. It is an informal administrative process to discuss deficiencies. If you will be accompanied by counsel, you must indicate this in your request for informal dispute resolution. You will be advised in writing of the decision related to the informal dispute.

Joanne Gabriel

Newtown Rehabilitation & Health Care Center

Page 2

Please return your response to the Supervising Nurse Consultant through the ePOC website and direct your questions regarding the deficiencies and any questions concerning the instructions contained in this letter to the Supervising Nurse Consultant at (860) 509-7400.

Sincerely,

/s/

*Maureen Golas Markure, MSN, RN, SNC*

Supervising Nurse Consultant

Facility Licensing & Investigations Section

cc: CMS Regional Office  
State of Connecticut Department of Social Services

Enclosure

Complaint #33643 & 33752